

the “position taken by the United States in the civil action,” but also the “action or failure to act by the agency upon which the civil action is based.” 28 U.S.C. § 2412(d)(2)(D), as amended by P.L. 99-80, § 2(c)(2)(B).

After consideration, it is hereby **ORDERED** that Plaintiff’s motion (ECF No. 29) is granted insofar as the Court approves the parties’ stipulation (ECF No. 30) and awards Plaintiff \$8,750.00 in attorney’s fees pursuant to EAJA. In accordance with the parties’ stipulation, the Commissioner will determine whether Plaintiff has any outstanding federal debt to be offset from the attorney’s fees, and if Plaintiff has no outstanding federal debt, then the Commissioner will honor Plaintiff’s assignment of attorney’s fees to counsel and make the check payable to Plaintiff’s counsel. However, if Plaintiff has outstanding federal debt, then the Commissioner will make the check payable to Plaintiff directly and deliver the check to the business address of Plaintiff’s counsel, and the amount of fees payable to Plaintiff will be the balance of the stipulated attorney’s fees remaining after subtracting the amount of Plaintiff’s outstanding federal debt. If Plaintiff’s outstanding federal debt exceeds the stipulated amount of attorney’s fees, then the stipulated amount will be used to offset that debt and no amount shall be paid to Plaintiff.¹

IT IS SO ORDERED.

/s/Bruce H. Hendricks
The Honorable Bruce Howe Hendricks
United States District Judge

February 26, 2021
Charleston, South Carolina

¹ As the Supreme Court made clear in *Astrue v. Ratliff*, attorney’s fees under EAJA are made payable to the prevailing litigant and not to the litigant’s attorney. 560 U.S. 586, 598 (2010) (holding that the plain text of EAJA requires that attorney’s fees be awarded to the litigant, thus subjecting EAJA fees to an offset of any pre-existing federal debts).